

Inland Fisheries and Wildlife

PUBLIC 511 An Act Regarding the Presumption of Violations of the Hunting-on- LD 408 Sunday Prohibition

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JACKSON KNEELAND	OTP-AM	H-625

Public Law 2003, chapter 511 repeals the provision of the law that makes possessing hunting equipment in a motor vehicle on an unpaved highway or road located in an unorganized township on Sunday prima facie evidence of a violation of the Sunday-hunting laws. Public Law 2003, chapter 511 also repeals the provision of the law that makes possessing a loaded firearm on or near a public paved way or within the right-of-way of a controlled access highway prima facie evidence of hunting.

PUBLIC 527 An Act To Clarify the Law Pertaining to the Discharge of a FirearmLD 1660 near a Dwelling

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRAHAN HALL	OTP-AM	H-679

Public Law 2003, chapter 527 prohibits a person from discharging a firearm within 100 yards of a farm building used for sheltering livestock, machines or harvested crops.

PUBLIC 552 An Act To Clarify Certain Provisions Contained in the Recodified LD 1697 Hunting, Fishing and Trapping Laws

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT DUNLAP	OTP-AM	H-729 DUNLAP S-388

Public Law 2003, chapter 552 clarifies certain parts of the recently recodified Maine Revised Statutes, Title 12 as follows:

1. It defines “dipnet;”
2. It clarifies that a person may not hunt wild turkey after having killed or registered one during an open turkey season of that calendar year;
3. It makes hunting or possessing a wild turkey without a valid permit a Class E crime with a minimum fine of \$500 plus \$500 for each turkey possessed in violation of this prohibition;

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4. It authorizes the Commissioner of Inland Fisheries and Wildlife to establish legal hunting times for wild turkey by rule;
5. It makes the penalty for a closed season violation involving a bear or moose the same as a closed season violation involving deer;
6. It makes the penalty for violating the prohibition against hunting or trapping a bear after having killed one or exceeding the bag limit on bear the same as the penalty for other big game animals;
7. It clarifies that a person may not possess more than one deer in a calendar year or hunt a deer after having killed one in the same calendar year unless otherwise provided in law or rule;
8. It prohibits a person from hunting moose after that person has killed or registered one during the open season of the same calendar year and makes a violation of that provision a Class D crime;
9. It restructures the provisions regarding the illegal possession or hunting of wild turkey to accord with similar big game provisions;
10. It changes the penalty for possessing a wild turkey in violation of a rule from a Class E crime with a mandatory fine of not less than \$500 plus \$500 for each turkey unlawfully possessed to a straight Class E crime;
11. It clarifies current law that a person may keep more than one legally obtained bear, deer or wild turkey in that person's home at any time;
12. It reduces the penalty for certain moose hunting violations regarding permittees and subpermittees from a Class D crime to a Class E crime; and
13. It repeals certain provisions of the recodified Maine Revised Statutes, Title 12 to reflect changes enacted in Public Law 2003, chapter 655.

PUBLIC 587 An Act To Remove the Designation of the Lake Christopher LD 1842
Wildlife Management Area as a Wildlife Management Area

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
BRYANT	OTP	
GAGNE-FRIEL		

Public Law 2003, chapter 587 removes the Lake Christopher wildlife management area from the list of areas that are classified as wildlife management areas.

PUBLIC 592 An Act To Strengthen the Prohibition against Night Hunting LD 1662

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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP	OTP-AM	H-692
BRYANT		H-762 DUNLAP

Public Law 2003, chapter 592 does the following:

1. It provides that a person who is guilty of night hunting and is in possession of night vision equipment commits a Class D crime for which the court shall impose a sentencing alternative of not less than 3 days for the first offense, none of which may be suspended. The court must also impose a fine of not less than \$2,000, none of which may be suspended. It also provides that a person who is guilty of night hunting, is in possession of night vision equipment and has been convicted of a Class D crime within the past 10 years under the fish and wildlife laws commits a Class D crime for which the court shall impose a sentencing alternative of not less than 6 days for the first offense, none of which may be suspended, and of not less than 10 days for each succeeding offense, none of which may be suspended. The court must also impose a fine of not less than \$2,000, none of which may be suspended;
2. It requires the hunting license of a person who is convicted of night hunting and found to have been in possession of night vision equipment at the time of the offense be revoked, and that person is ineligible to obtain a hunting license for a period of 5 years from the date of conviction;
3. It exempts night vision equipment seized in connection with a night hunting violation from libel proceedings;
4. It clarifies that the current exemption from libel proceedings for fishing equipment seized in connection with certain fishing violations does not include motorboats or motor vehicles;
5. It incorporates changes made by Public Law 2003, chapter 333 in order to incorporate those changes into the new Maine Revised Statutes, Title 12, Part 13; and
6. It clarifies that raccoons may be hunted at night during the open season.

PUBLIC 614 **An Act To Make Technical Corrections to Maine's Fish and** **LD 1743**
EMERGENCY **Wildlife Laws**

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DUNLAP	OTP-AM	H-781
BRYANT		H-834 DUNLAP
		S-464 BRYANT

Public Law 2003, chapter 614 makes the following changes to the laws governing inland fisheries and wildlife:

1. It restricts the muzzle-loading open season on deer to hunting with a muzzle-loading firearm that is 40 caliber or greater and capable of firing only a single charge;

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2. It repeals the provision that authorizes hunting deer with unconventional weapons;
3. It clarifies that a new lake and river protection sticker must be obtained annually in order to be valid;
4. It prohibits the operation of motor vehicles on Pickerel Pond located in Township 32 Middle Division except for authorized emergency vehicles and motor vehicles of the Department of Inland Fisheries and Wildlife;
5. It permits the sale of baitfish in containers composed in whole or in part of polystyrene foam plastic;
6. It changes the effective date for Public Law 2003, chapter 414 from 90 days after adjournment of the Second Regular Session of the 121st Legislature to August 31, 2004;
7. It provides that social security numbers in the possession of the Department of Inland Fisheries and Wildlife are not public records; and
8. It makes Public Law 2003, chapter 511 effective on August 31, 2004.

Public Law 2003, chapter 614 was enacted as an emergency measure effective April 12, 2004.

PUBLIC 655 An Act To Revise the Fish and Wildlife Laws To Complement the LD 1920 Recodification of Those Laws

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-858 H-915 DUNLAP

Public Law 2003, chapter 655 complements the Recodification of the laws relating to the Department of Inland Fisheries and Wildlife accomplished in the First Regular Session of the 121st Legislature: Public Law 2003, chapter 414. That Recodification also directed the Department of Inland Fisheries and Wildlife to work with the Office of Policy and Legal Analysis to develop recommendations to address legal ambiguities and other issues identified by the Office of Policy and Legal Analysis in its work on the Recodification that could not be addressed in Recodification and to submit a bill to the 2nd Regular Session of the 121st Legislature to resolve those issues. Public Law 2003, chapter 655 is the result of that work. Public Law 2003, chapter 655:

1. Resolves legal and substantive ambiguities in accordance with recommendations made by the Department of Inland Fisheries and Wildlife in areas including but not limited to definitions, the duties and powers of the Commissioner of Inland Fisheries and Wildlife, the operating and financial affairs of the Department of Inland Fisheries and Wildlife, wardens, enforcement, licenses, hunting, trapping, commercial shooting areas, fishing, bait dealers, taxidermy, guides and trip leaders, whitewater rafting, wildlife importation, nuisance wildlife, wildlife sanctuaries, fish management, watercraft, snowmobiles and ATVs;

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2. Resolves penalty ambiguities in accordance with recommendations made by the Department of Inland Fisheries and Wildlife and brings penalty provisions into compliance with current drafting standards and the requirements of the Maine Criminal Justice Information System (i.e., all prohibited acts drafted so that each sanctionable offense is in its own discreet provision with its own discreet penalty provision);
3. Makes technical changes to further increase clarity and readability; and
4. Amends the effective date of laws passed in the Second Regular Session and Second Special Session of the 121st Legislature that affect the recodified laws (Public Law 2003, chapters 527, 552, 573, 587 and 592) to make these effective on the same date as the Recodification. The Recodification originally had an effective date of 90 days after the adjournment of Second Regular Session of the 121st Legislature, however, the Legislature adjourned on January 30, 2004 ending the Second Regular Session earlier than anticipated necessitating a change to the effective date of the Recodification to avoid conflicts and unintended consequences. Public Law 2003, chapter 614 changed the effective date of the Recodification to August 31, 2004.

Public Law 2003, chapter 655 was enacted as an emergency. Those portions of Public Law 2003, chapter 655 that amended the effective dates of laws passed in the Second Regular Session and Second Special Session of the 121st Legislature took effect on April 22, 2004. All other provisions of Public Law 2003, chapter 655 have an effective date of August 31, 2004.

PUBLIC 662 An Act To Establish Family Fishing Days **EMERGENCY**

LD 1932

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
DAVIS P	OTP-AM	S-485

Public Law 2003, chapter 662 creates "Family Fishing Days" as free fishing days and repeals the provision of law that makes Father's Day weekend a free fishing weekend.

Public Law 2003, chapter 662 was enacted as an emergency measure effective April 22, 2004.

PUBLIC 695 An Act To Implement Certain Recommendations of the Governor's Task Force on ATV Issues **EMERGENCY**

LD 1912

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LANDRY	OTP-AM	H-881
BRYANT		S-509 BRYANT

Public Law 2003, chapter 695 accomplishes, with some refinement, many of the recommendations of the Governor's task force on ATV issues.

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1. It broadens the purpose of the ATV Recreational Management Fund to allow for purchase or lease of real estate and acquisition of easements for ATV trails or sport-riding facility acquisition and permits its use for grants-in-aid to organizations for the purchase of ATV-related equipment.
2. It creates an ATV law enforcement grant program to make enforcement grants to the warden service as well as to other enforcement agencies and dedicates the Department of Inland Fisheries and Wildlife's ATV gas tax revenues under the Maine Revised Statutes, Title 36, section 2903-D to the ATV law enforcement grant program. It authorizes the program to accept and disburse donated materials and equipment.
3. It increases the penalty for failure of an ATV operator to stop for a law enforcement officer to a Class D crime with a mandatory \$1,000 fine. It provides that attempting to elude a law enforcement officer is subject to the same penalties.
4. It requires the suspension of all licenses and permits issued by the Department of Inland Fisheries and Wildlife and allows suspension of registrations issued by the department for certain violations of ATV laws (operating an ATV on a temporarily closed trail, abuse of another person's property, operating under the influence under 21 years of age, operating to endanger, reckless operation, operating on land of another without permission, failure to stop or attempting to elude an officer). It requires the violator to complete mandatory training in order to have the suspension lifted.
5. It changes the law regarding payment of sales and use tax on ATV purchases by nonresidents to parallel the law relating to snowmobiles: it eliminates the requirement that non-residents pay a sales and use tax (currently they must pay the tax if they use the ATV in the State for more than 30 days in any 12 month period).
6. Current law is ambiguous as to the areas where children under 10 years of age or unaccompanied children under 16 years of age who have not completed required training may operate an ATV; Public Law 2003, chapter 695 clarifies the law and adds safety-training sites to the list of areas where operation by such children is permitted. Specifically it provides that a child under 10 years of age or an unaccompanied child under 16 years of age who has not completed required training may operate an ATV only on land on which the child is domiciled, land owned or leased by the child's parent or guardian or in a safety-training site approved by the department.
7. It prohibits snorkel kits and similar kits designed to allow ATV use in deep water, except at racing events. Violation of this provision is a civil violation subject to a \$100 to \$500 fine.
8. It requires a parent or guardian to attend ATV training with children under 16 years of age.
9. It requires visible identification on both the front and rear of all ATVs in the form of a sticker. Violation of this provision is a civil violation subject to a \$100 to \$500 fine.
10. It establishes a legislative finding that abusive use of ATVs places access to private property for recreation at risk.
11. It prohibits operating an ATV on the land of another without the permission of the landowner or lessee. It creates a presumption of permission on posted ATV trails and on land open to ATVs by landowner policy. It requires written permission on cropland, pastureland and orchard (currently written permission is required on cropland and pastureland only).

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12. It repeals the law providing for a special 15-month registration fee; it provides that registrations issued prior to July 1st (the beginning of the normal registration period) but after May 1st are valid from the date of issuance through June 31st of the following year.
13. It prohibits operation of an ATV on a portion of trail posted as temporarily closed. Violation of this provision is a civil violation subject to a \$100 to \$500 fine.
14. It changes the maximum allowable ATV sound level to 96 decibels in a 20-inch test, to reflect national standards.
15. It adds rivers, brooks, streams, great ponds, nonforested wetlands, vernal pools and source water protection areas of public drinking water supplies to the list of areas where ATV operation is prohibited when the ground is not frozen. It provides exceptions for designated trails and for certain maintenance and inspection activities and for governmental officials performing their duties provided certain conditions are met.
16. It adds destruction of signs and posted notices to the current provision prohibiting abuse of another person's property by an ATV operator.

Public Law 2003, chapter 695 was enacted as an emergency measure effective May 7, 2004. Only the portion of the law relating to temporary closures of ATV trails takes effect on that date. All other portions of the law have an effective date of August 31, the date the recodification of the fisheries and wildlife laws take effect.

RESOLVE 103 Resolve, Regarding the Condition and Operation of the Little River LD 173 Dam

Sponsor(s)
LEMOINE

Committee Report
OTP-AM

Amendments Adopted
H-677

Resolve 2003, chapter 103 requires the Department of Inland Fisheries and Wildlife to monitor the dam on the Little River located near the Town of Scarborough for problems with flooding or with the effective operation of the dam's fishway and fish trap. The resolve requires the Commissioner of Inland Fisheries and Wildlife to report back the department's finding along with any recommended legislation to the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters by January 1, 2006.